

NOT FOR PUBLICATION

SEP 27 2007

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

EVA SANDOVAL-ORTEGA,

Petitioner,

v.

PETER D. KEISLER*, Acting Attorney
General,

Respondent.

Nos. 04-76787
05-72330

Agency No. A79-521-554

MEMORANDUM**

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted September 24, 2007 ***

Before: CANBY, TASHIMA and RAWLINSON, Circuit Judges.

* Peter D. Keisler is substituted for his predecessor, Alberto R. Gonzales, as Acting Attorney General of the United States, pursuant to Fed. R. App. P. 43(c)(2).

** This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

*** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Eva Sandoval-Ortega, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing her appeal from an immigration judge's decision denying her application for cancellation of removal (No. 04-76787), and the BIA's subsequent denial of her motion to reopen based on ineffective assistance of counsel (No. 05-72330). We have jurisdiction under 8 U.S.C. § 1252. We deny the petitions for review.

In her opening brief, Sandoval-Ortega fails to address and therefore has waived any challenge to the BIA's dismissal of her underlying appeal. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996).

We review for abuse of discretion the denial of a motion to reopen. *See Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003). The BIA did not abuse its discretion in denying Sandoval-Ortega's motion to reopen because she failed to demonstrate prejudice as a result of former counsel's alleged ineffective assistance. *See id.* at 901. Accordingly, Sandoval-Oretga's contention that the BIA violated her due process rights by denying the motion to reopen is unavailing. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (explaining that petitioner must show error to prevail on a due process challenge).

PETITIONS FOR REVIEW DENIED.